



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: LAPCEVIC=1

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4/30/04

In re Application of:)	Art Unit: 3761
Milos LAPCEVIC)	Examiner: M. Bogart
Appln. No.: 10/018,887)	Washington, D.C.
Date Filed: December 26, 2001)	Confirmation No. 8381
For: COLOSTOMY PUMP DEVICE)	April 12, 2004

REPLY TO FINAL ACTION: REQUEST FOR RECONSIDERATION

U.S. Patent and Trademark Office
Customer Window, Mail Stop AF
Crystal Plaza Two, Lobby, Room 1B03
Honorable Commissioner for Patents
Arlington, Virginia 22202

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APR 15 2004

TECHNOLOGY CENTER 3700

Sir:

Applicant is in receipt of the Final Action mailed March 1, 2004, and applicant respectfully acknowledges the telephone conference on or about April 9, 2004, between undersigned representative of applicant, on behalf of applicant, and Examiner Michael Bogart.

The claims in the application remain as claims 1-3, 8-10, 16, 17, 26, 27, 37-42, 47, 49-51, 53, 57, 58, 70, 76-78 and 80-85, which claims define novel and unobvious subject matter under §§102 and 103, whereby all of applicant's claims should be allowed. Based on the aforementioned telephone conference, applicant believes that the examiner now agrees with applicant's position, whereby the present application

should be in condition for formal allowance. Accordingly, applicant respectfully requests favorable consideration and early formal allowance.

Claims 8-10, 76-78, 80 and 81 have been allowed, and claims 16, 17, 27, 38-44, 47, 49-51, 53, 57, 58 and 82-85 have only been objected to as being dependent on a rejected base claim, but have otherwise been indicated as being "allowable...". Applicant understands that all of these claims are considered by the PTO to define novel and unobvious subject matter under §§102 and 103.

On the other hand, claims 1-3, 26, 37 and 70 have been rejected again under §102 as anticipated by Sarashina. This rejection is respectfully traversed.

The rejection states that the outlet 108 of Fig. 1 of Sarashina, such outlet 108 being connected to a suction means, is "adapted to provide suction to the area surrounding the orifice **and the orifice itself,**..." (emphasis added). In addition, on page 4 of the final Action, second paragraph, the following statement appears:

When in use, suction is being applied to the orifice (and not just the area surrounding the orifice), even if it is not sufficient to extract waste.

Respectfully, this is absolutely incorrect, i.e. Sarashina has been misunderstood by the PTO, as will be pointed out in

detail below.

The rejection refers to Fig. 1 and column 1, line 19 through column 2, line 9, and particularly column 1, lines 19-68. Applicant respectfully quotes from this portion of Sarashina (which, incidentally, relates to subject matter which was prior art to Sarashina):

The intestinal irrigator 100 includes a body which comprises an outer cylindrical wall 101.... An inner cylindrical wall 103 is disposed within the outer cylindrical wall 101 in coaxial relation therewith.... With this construction, **an annular chamber 105 is defined by the outer and inner cylindrical walls 101 and 103..., the annular chamber serving as a suction chamber.** (emphasis added)

Thus, the interior ("inner chamber 101") of the intestinal irrigator 100 is separated from the annular chamber 105 by the inner cylindrical wall 103, and it is only the annular chamber which serves "as a suction chamber" as stated.

A tubular portion 108 is formed on the outer surface of the outer cylindrical wall 103 and is in communication with the annular suction chamber 105. The tubular portion 108 is connectable to a suction source through a suction tube for creating a preselected degree of negative pressure within the annular suction chamber [105],

(Please note that the annular suction chamber has been previously identified with the reference character 105. It so happens that at line 46 of column 1, the annular suction chamber is misidentified with the reference character "1", but

this is clearly a clerical or typographical or printing error. There is only one annular suction chamber, and that is the suction chamber 105. There is no chamber "1".)

The use of the device is explained commencing with line 48 of column 1, as follows:

... the front ends 101(a) and 103(a) of the outer and inner cylindrical walls 101 and 103 are brought into contact with the belly of the patient, so that the artificial anus is disposed within the inner chamber 111. The tubular portion 108 is connected to the suction source through the suction tube **so that a predetermined degree of negative pressure... is created within the annular suction chamber 105.**

Please note that there is no disclosure of negative suction being applied to the inner chamber 111, and the physical construction of the Fig. 1 device of Sarashina makes it impossible to do so in view of the existence of the inner cylindrical wall 103.

Thus, the intestinal irrigator 100 is positively retained in position by suction, and front ends 101a and 103a of the outer and inner cylindrical walls 101 and 103 are held in sealing engagement with the belly of the patient.

If indeed the inner cylindrical wall 103 were not present (of course, it is present), whereby vacuum could be applied to the inner chamber 111, it would be impossible to carry out the function of the Fig. 1 device. The inner cylindrical wall 103 absolutely must be present to enable suction to be created in

the annular chamber 105 in order to "positively" retain the intestinal irrigator 100 "in position by suction" as stated.

Claim 1, presently the main claim in the present application, explicitly recites that the claimed device has an outlet which is "connectable to a suction means adapted to apply suction to the orifice" in the mammalian body. As pointed out above and during the aforementioned telephone conference, such structure is not shown by Sarashina, nor is such structure remotely possible in Sarashina.

All of the other rejected claims depend directly or indirectly from claim 1 and thus incorporate the subject matter of claim 1. As agreed during the aforementioned telephone interview, the rejection should be withdrawn, and such is respectfully requested.

Applicant believes that all issues have been discussed and resolved above. Accordingly, applicant respectfully requests early formal allowance.

Respectfully submitted,

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In Re Application of: Milos LAPCEVIC

Application No.: 10/018,887

Filed: December 26, 2001

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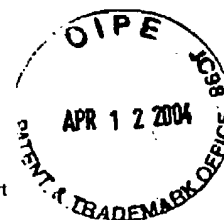
Art Unit: 3761

Examiner: M. Bogart

Washington, D.C.

Atty.'s Docket: LAPCEVIC=1

Date: April 12, 2004



Customer Window, Mail Stop AF
THE COMMISSIONER OF PATENTS AND TRADEMARKS
Arlington, VA 22202

**RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3761**

*Please
Enter
After Final
Response
- MGB*

Sir:

Transmitted herewith is a [XX] **REPLY TO FINAL ACTION: REQUEST FOR RECONSIDERATION** in the above-identified application.

[] Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted.

[] A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.

[XX] No additional fee is required.

The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)		(Col. 3)
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR		PRESENT EXTRA EQUALS
TOTAL	* 39	MINUS	** 39		0
INDEP.	* 3	MINUS	*** 3		0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					

SMALL ENTITY	
RATE	ADDITIONAL FEE
x 9	\$
x 43	\$
+ 145	\$
ADDITIONAL FEE TOTAL	
	\$

OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE
x 18	\$
x 86	\$
+ 290	\$
TOTAL	
	\$

- * If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
- *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

[XX] Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

[] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity
Response Filed Within

- [] First - \$ 55.00
- [] Second - \$ 210.00
- [] Third - \$ 475.00
- [] Fourth - \$ 740.00

Month After Time Period Set

Other Than Small Entity
Response Filed Within

- [] First - \$ 110.00
- [] Second - \$ 420.00
- [] Third - \$ 950.00
- [] Fourth - \$ 1,480.00

Month After Time Period Set

[] Less fees (\$) already paid for month(s) extension of time on

[] Please charge my Deposit Account No. 02-4035 in the amount of \$

[] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$

[] A check in the amount of \$ is attached (check no.).

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

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